

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION No: 23767 of 2004

Between:

M/s. Jaya Diagnostic and Research Centre Limited, (Medwin Hospitals),
Chirag-Ali Lane, Hyderabad

Rep. by its Managing Director Sri B.Kameswara Rao.

..... PETITIONER

AND

- 1 Commercial Tax Officer, Nampally Circle, Hyderabad.
- 2 Regional Vigilance & Enforcement Officer, City Division, Hyderabad.
- 3 Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad.
- 4 The Manager, Canara Bank Abids Division, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the balance disputed tax of Rs.11,91,241/- and Rs.3,85,470/- for the assessment years 2002-2003 and 2003-04 respectively arising in pursuance of the stay rejection orders of the third respondent dt. 27.11.2004 pending disposal of the appeals before the third respondent or to pass such further or other orders

Counsel for the Petitioner: MR.S.KRISHNA MURTHY

Counsel for the Respondent Nos.1 to 3: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following:

ORAL ORDER:- (Per the Hon'ble Sri Justice M.H.S.Ansari)

Heard the learned counsel for respective parties.

2. Keeping the nature of relief prayed for in the instant Writ Petition, we are inclined to dispose of the Writ Petition at this stage with certain appropriate directions.

3. What is questioned before us is an order of the learned appellate Deputy Commissioner (CT) dated 27-11-2004 whereby the application for stay pending disposal of the appeals for the assessment years 2002-03 and 2003-04 was rejected and garnishee notices have been issued attaching the bank amount of the petitioner with the 4th respondent-Bank.

4. If the petitioner deposits 50% of the tax in dispute with respect to each of the assessment years in respect whereof the two appeals respectively have been filed and are pending disposal before the learned appellate Deputy Commissioner (CT) – 3rd respondent herein, shall be disposed of on their own merits without insisting upon the payment of balance disputed tax.

5. As the bank account of the petitioner has been attached, we direct the attachment shall be vacated to enable the petitioner to pay the 50 percent of disputed tax for the respective assessment years within one week from date hereof from out of the said bank account.

6. Consequently, the petitioner complying with the above directions the impugned

order dated 27.11.2004 as also the garnishee notices dated 19.11.2004 and 15.12.2004 are hereby set aside/lifted as the case may be.

7. The Writ Petition accordingly stands disposed of in terms as above. However, in the fact and circumstances of this case, there shall be no order as to costs.

M.H.S. ANSARI, J.

S. ANANDA REDDY, J.

Date: 21.12.2004

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To

- 1 The Commercial Tax Officer, Nampally Circle, Hyderabad.
 - 2 The Regional Vigilance & Enforcement Officer, City Division, Hyderabad.
 - 3 The Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad.
 - 4 The Manager, Canara Bank Abids Division, Hyderabad.
- 5 2 CCs to the G.P. for Commercial Tax, High Court of A.P., Hyderabad (OUT).
- 6 2 CD copies.